

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Mitchell S. Fineman, M.D. & Lucy Q. Fineman, h/w

(b) County of Residence of First Listed Plaintiff Montgomery County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Marc H. Perry, Esquire
Post & Schell

13th Floor, Four Penn Center, 1600 John F. Kennedy

DEFENDANTS

Trek Bicycle Corporation, LTD, Electra Bicycle Company, Inc., Trek Retail Corporation, SRAM, LLC

County of Residence of First Listed Defendant Jefferson
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (if Known)

John C. Farrell, Elizabeth A. Underwood
Marshall Dennehey Warner Coleman and Goggin
2000 Market Street, Suite 2300

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input checked="" type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			SOCIAL SECURITY	<input type="checkbox"/> 850 Securities/Commodities Exchange
	REAL PROPERTY	CIVIL RIGHTS	790 Other Labor Litigation	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/ Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/ Disabilities - Other	Other:	FEDERAL TAX SUITS	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 871 IRS - Third Party	
		<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 26 USC 7609	
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1441

VI. CAUSE OF ACTION

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

John C. Farrell

6/12/2023

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG/JUDGE

05/2023

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel to indicate the category of the case for the purpose of assignment to the appropriate calendar)

2312 Holly Lane, Lafayette Hill, PA

Address of Plaintiff: _____

Address of Defendant: 801 W. Madison Street, Waterloo, WI 53594; 1000 W. Fulton Market #4, Chicago, IL 60607

Place of Accident, Incident or Transaction: New Jersey

RELATED CASE IF ANY:

Case Number: _____ Judge: _____ Date Terminated _____

Civil cases are deemed related when Yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit Pending or within one year previously terminated action in this court? Yes No
3. Does this case involve the validity or infringement of a patent already in suit or any earlier Numbered case pending or within one year previously terminated action of this court? Yes No
4. Is this case a second or successive habeas corpus, social security appeal, or pro se case filed by the same individual? Yes No

I certify that, to my knowledge, the within case is is not related to any now pending or within one year previously terminated action in this court except as note above.

DATE: _____

Attorney-at-Law (Must sign above)

52824

Attorney I.D. # (if applicable)

Civil (Place a √ in one category only)

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Wage and Hour Class Action/Collective Action
- 6. Patent
- 7. Copyright/Trademark
- 8. Employment
- 9. Labor-Management Relations
- 10. Civil Rights
- 11. Habeas Corpus
- 12. Securities Cases
- 13. Social Security Review Cases
- 14. Qui Tam Cases
- 15. All Other Federal Question Cases. (Please specify): _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. All Other Diversity Cases: (Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

I, John C. Farrell, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2 § 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

Relief other than monetary damages is sought.

DATE: 6/14/2023

Attorney-at-Law (Sign here if applicable)

52824

Attorney ID # (if applicable)

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

Mitchell S. Fineman, M.D. and Lucy Q. Fineman,	:
h/w	:
Plaintiffs,	:
v.	:
Trek Bicycle Corporation, Ltd., Electra Bicycle	:
Company, Inc., Electra Bicycle Corporation,	:
LLC, Trek Retail Corporation (d/b/a Trek Bicycle	:
Philadelphia Manayunk), Beacon Stores, Inc.,	:
(d/b/a Beacon Cycling and/or Beacon Cycling &	:
Fitness), Mitchell Rovins and Susanna Rovins	:
(d/b/a Beacon Stores, Inc. (d/b/a Beacon Cycling	:
and/or Beacon Cycling & Fitness), SRAM, LLC,	:
John Doe(s) and Jane Doe(s), ABC Corporation	:
and DEF, LLC, and Heng Ying Machinery Co.,	:
Ltd.,	:
Defendants.	:

PETITION FOR REMOVAL

To the Honorable Judges of the United States District Court for the Eastern District of Pennsylvania:

Pursuant to 28 U.S.C. § 1441, Defendants, Trek Bicycle Corporation, LTD, Electra Bicycle Company, Inc., Electra Bicycle Corporation, LLC, Trek Retail Corporation, and SRAM, LLC, by and through their counsel, Marshall Dennehey Warner Coleman & Goggin, respectfully petition for the removal of this action to the United States District Court for the Eastern District of Pennsylvania. In support thereof, defendants aver the following:

1. On or about June 9, 2023, Plaintiffs, Mitchell and Lucy Fineman, filed a Civil Action Complaint in the Philadelphia Court of Commons Pleas against defendants, Trek Bicycle Corporation, LTD, Electra Bicycle Company, Inc., Electra Bicycle Corporation, LLC, Trek

Retail Corporation, SRAM, LLC, Beacon Cycling Stores, Inc., Mitchell and Susanna Rovins, and Heng Ying Machinery Co., Ltd. See Exhibit 1, Complaint.

2. Plaintiff's Complaint alleges that Plaintiff, Mitchell Fineman, is a left hand dominant surgeon who suffered a left tricep tendon rupture requiring surgery as a result of an accident while Dr. Fineman was riding an Electra bicycle. See Exhibit 1 at ¶¶ 81-82, 89, 91-93.

3. Plaintiff's Complaint seeks damages sounding in negligence, product liability, breach of warranty and unfair trade practices and makes claims for punitive damages. Id.

4. Under 28 U.S.C. § 1332(a) federal district courts have original jurisdiction of all civil actions where the matter in controversy exceeds the sum of \$75,000 and is between citizens of different States. See 28 U.S.C. § 1332(a).

5. Under 28 U.S.C. 1441(a) & (b), any civil action brought in State court of which the district courts of the United States have original jurisdiction by virtue of diversity of citizenship may be removed to the district court of the United States for the district and division in the place where such action is pending. See 28 U.S.C. § 1441(a) & (b).

6. The citizenship of a limited liability is determined by the citizenship of its members. See *Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 420 (3d Cir. 2010).

7. When pleading diversity of citizenship of an LLC's members, the pleading party must conduct a reasonable inquiry into the citizenship of the LLC. See *Lincoln Ben. Life Co. v. AEI Life, LLC*, 800 F.3d 99, 107 (3d Cir. 2015).

8. In pleading the diversity of citizenship of an LLC's members, it is sufficient to allege that a defendant is not a citizen of the plaintiff's state of citizenship. Id. at 108 & 111.

9. A defendant whose citizenship is misidentified in the Complaint may remove a matter to federal court if, in actuality, its true citizenship allows for complete diversity. See Moore v. Johnson & Johnson, 907 F. Supp. 2d 646, 651, 657-61 (E.D. Pa. 2012).

10. Finally, all defendants, “who have been properly joined and served” must join in or consent to the removal of the action. 28 U.S.C. § 1446(a)(2)(A).

11. Plaintiffs, Mitchell and Lucy Fineman, are citizens of Pennsylvania.

12. Defendant, Trek Bicycle Corporation is a Wisconsin Corporation with a Principal place of business in Wisconsin and, as such, is a citizen of the state of Wisconsin. See Exhibit 2, Affidavit of Jason Schroeder.

13. Defendant, Trek Retail Corporation is a Wisconsin corporation with a principle place of business in Wisconsin and, a such, is a citizen of Wisconsin. Id.

14. Defendants, Electra Bicycle Company, Inc. and Electra Bicycle Corporation, LLC, are not legal entities, nor were they legal entities at any time relevant to the claims in the Complaint. Id.

15. The proper name of Defendant, Electra, is “Electra Bicycle Company, LLC.” Id.

16. Electra Bicycle Company, LLC, is a citizen of the State of Wisconsin. Id.

17. Defendants, Beacon Stores, Inc. and Mitchell and Susanna Rovins are citizens of the state of New Jersey. See Exhibit 1.

18. Defendants, Beacon Stores, Inc. and Mitchell and Susanna Rovins have consented to the removal of this case. See Exhibit 3, Consent.

19. Defendant, SRAM, LLC, is a citizen of the states of Delaware and Illinois.

20. Defendant, Heng Ying Machinery Co., Ltd., is a citizen of Taoyuan City, Taiwan (R.O.C.).

21. Defendant, Hang Ying Machinery Co., Ltd, has not been served with the Complaint. See Exhibit 4, Dockets.

22. Accordingly, diversity of citizenship exists because plaintiffs are citizens of Pennsylvania and all defendants are citizens of different states.

23. Further, as noted above, plaintiff, Mitchell Fineman, a surgeon, seeks damages for pain and suffering as a result of the accident and his subsequent surgery, loss of “significant income,” scarring, past and future medical expenses, continued claimed permanent damages including cold intolerance in his left elbow, among other alleged damages. Plaintiffs’ Complaint also seeks punitive damages. See Exhibit 1 at ¶¶ 80-120, Wherefore Clauses.

24. Accordingly, the matter in controversy exceeds the sum of \$75,000.

25. As such, this Honorable Court has original jurisdiction pursuant to the provisions of 28 U.S.C. § 1332 based upon the fact that there exists diversity of citizenship between the plaintiffs, Mitchell and Lucy Fineman, and Defendants, Trek Bicycle Corporation, LTD, Electra Bicycle Company, Inc., Electra Bicycle Corporation, LLC, Trek Retail Corporation, SRAM, LLC, Beacon Stores, Inc., Mitchell and Susanna Rovins, and Heng Ying Machinery Co., Ltd., and the amount in controversy exceeds \$75,000.00.

26. The present lawsuit is removable from the Philadelphia County Court of Common Pleas pursuant to 28 U.S.C. §§ 1441 and 1446.

27. The request for removal is timely because it is being made within 30 days of the filing of plaintiff’s Complaint in the Philadelphia County Court of Common Pleas. See 28 U.S.C. § 1446; see also *Sikirica v. Nationwide Ins. Co.*, 416 F.3d 214, 223 (3d Cir. 2005) (holding that, in Pennsylvania, it is the filing of a Complaint that triggers the 30-day period for removal).

28. True and correct copies of this Notice of Removal, with accompanying exhibits and separate Notice to State Court of Filing of Notice of Removal, a copy of which is attached as Exhibit 5, will be filed with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania, in accordance with the provisions of 28 U.S.C. § 1446(d), and will be served upon counsel for the Plaintiff via the Philadelphia Court of Common Pleas e-filing system.

WHEREFORE, petitioner, Trek Bicycle Corporation, LTD, Electra Bicycle Company, Inc., Electra Bicycle Corporation, LLC, Trek Retail Corporation, and SRAM, LLC, respectfully requests that the above-captioned action be removed to the United States District Court for the Eastern District of Pennsylvania

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**

BY: 

JOHN C. FARRELL, ESQUIRE
PA Bar ID: 52824
ELIZABETH UNDERWOOD
PA Bar ID: 93802
Attorneys for Defendants,
Trek Bicycle Corporation, LTD, Electra
Bicycle Company, Inc., Electra Bicycle
Corporation, LLC, Trek Retail Corporation,
and SRAM, LLC

Date: June 14, 2023

EXHIBIT 1

POST & SCHELL, P.C.
BY: MARC H. PERRY, ESQUIRE
I.D. #: 68610
13TH FLOOR
FOUR PENN CENTER
1600 JOHN F KENNEDY BLVD.
PHILADELPHIA, PA 19103
(215) 587-1000
mperry@postschell.com

MITCHELL S. FINEMAN, M.D.
and LUCY Q. FINEMAN, h/w
2312 Holly Lane
Lafayette Hill, PA 19444

Plaintiffs,

v.

TREK BICYCLE CORPORATION, LTD.
801 W Madison Street
Waterloo, WI 53594

ELECTRA BICYCLE COMPANY, INC.
1010 South Coast Hwy 101
Suite 101
Encinitas, CA 92024

ELECTRA BICYCLE CORPORATION, LLC
3275 Corporate View
Vista, CA 92081

TREK RETAIL CORPORATION (d/b/a Trek
Bicycle Philadelphia Manayunk)
4159 Main Street
Philadelphia, PA 19127

BEACON STORES, INC. (d/b/a Beacon
Cycling and/or Beacon Cycling & Fitness)
231 Tilton Road
Northfield, NJ 08225

MITCHELL ROVINS and SUSANNA
ROVINS (d/b/a Beacon Stores, Inc. (d/b/a Beacon
Cycling and/or Beacon Cycling & Fitness)
1005 Maple Ave
Linwood, NJ 08221

ATTORNEYS FOR PLAINTIFFS
Filed and Attested by the
MITCHELL S. FINEMAN and
LUCY Q. FINEMAN 09 JUN 2023 09:13 am
G. IMPERATO

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

NO: _____

JURY TRIAL DEMANDED

SRAM, LLC
1000 W. Fulton Market #4
Chicago, IL 60607

JOHN DOE(S) and JANE DOE(S)
1234 Main Street
Anywhere, USA 19107

ABC CORPORATION and DEF, LLC
1234 Main Boulevard
Anytown, USA 19107

HENG YING MACHINERY CO., LTD.
136 Jen Teh 5th St. 33545
Taoyuan City, Taiwan (R.O.C.)

Defendants.

NOTICE

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED IN THE COMPLAINT OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
Lawyer Referral and Information Service
One Reading Center
Philadelphia, PA 19107
Telephone: (215) 238-1701

A V I S O

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita a o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y require que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTAT DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SINO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE IENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

ASOCIACION DE LICENCIADOS DE FILADELFIA
Servicio De Referencia E Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
Telefono: (215) 238-1701

TO: Defendants

You are hereby notified to plead to the enclosed Complaint within twenty (20) days of service thereof or a default judgment may be entered against you.

BY: Marc H. Perry
Attorney for Plaintiffs

POST & SCHELL, P.C.
BY: MARC H. PERRY, ESQUIRE
I.D. #: 68610
13TH FLOOR
FOUR PENN CENTER
1600 JOHN F KENNEDY BLVD.
PHILADELPHIA, PA 19103
(215) 587-1000
mperry@postschell.com

MITCHELL S. FINEMAN, M.D.
and LUCY Q. FINEMAN, h/w
2312 Holly Lane
Lafayette Hill, PA 19444

Plaintiffs,

v.

TREK BICYCLE CORPORATION, LTD.
801 W Madison Street
Waterloo, WI 53594

ELECTRA BICYCLE COMPANY, INC.
1010 South Coast Hwy 101
Suite 101
Encinitas, CA 92024

ELECTRA BICYCLE CORPORATION, LLC
3275 Corporate View
Vista, CA 92081

TREK RETAIL CORPORATION (d/b/a Trek
Bicycle Philadelphia Manayunk)
4159 Main Street
Philadelphia, PA 19127

ATTORNEYS FOR PLAINTIFFS,
MITCHELL S. FINEMAN and
LUCY Q. FINEMAN

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

NO: _____

JURY TRIAL DEMANDED

BEACON STORES, INC. (d/b/a Beacon
Cycling and/or Beacon Cycling & Fitness)
231 Tilton Road
Northfield, NJ 08225

MITCHELL ROVINS and SUSANNA
ROVINS (d/b/a Beacon Stores, Inc. (d/b/a
Beacon Cycling and/or Beacon Cycling &
Fitness)
1005 Maple Ave
Linwood, NJ 08221

SRAM, LLC
1000 W. Fulton Market #4
Chicago, IL 60607

JOHN DOE(S) and JANE DOE(S)
1234 Main Street
Anywhere, PA 19107

ABC CORPORATION and DEF, LLC
1234 Main Boulevard
Anytown, PA 19107

HENG YING MACHINERY CO., LTD.
136 Jen Teh 5th St. 33545
Taoyuan City, Taiwan (R.O.C.)

Defendants.

CIVIL ACTION – COMPLAINT

Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, by and through their attorneys, Post & Schell, P.C., hereby avers as follows:

PARTIES

1. Plaintiff, MITCHELL S. FINEMAN, M.D. (“Dr. Fineman”), is an adult individual, with a home address of 2312 Holly Lane, Lafayette Hill, PA 19444 within the County of Philadelphia.

2. Plaintiff, LUCY Q. FINEMAN (Mrs. Fineman"), is an adult individual, with a home address of 2312 Holly Lane, Lafayette Hill, PA 19444 within the County of Philadelphia.

3. Defendant, TREK BICYCLE CORPORATION, LTD. ("Trek BC"), is a for-profit corporation organized and existing under the laws of the State of Delaware, with a principal place of business of 801 W Madison Street, Waterloo, WI 53594, who regularly and systematically conducts business in the County of Philadelphia.

4. Defendant, Trek BC is the parent corporation of both ELECTRA BICYCLE CORPORATION, LLC and TREK RETAIL CORPORATION (d/b/a Trek Bicycle Philadelphia Manayunk).

5. Defendant, ELECTRA BICYCLE COMPANY, INC. ("Electra Inc."), is a for-profit corporation organized and existing under the laws of the State of California, with a principal place of business of 1010 South Coast Hwy 101, Suite 101, Encinitas, CA 92024, who regularly and systematically conducts business in the County of Philadelphia.

6. Defendant, ELECTRA BICYCLE CORPORATION, LLC ("Electra LLC"), is a for-profit corporation organized and existing under the laws of the State of Delaware, with a principal place of business of 1010 South Coast Hwy 101, Suite 101, Encinitas, CA 92024, who regularly and systematically conducts business in the County of Philadelphia.

7. Defendant, Electra LLC is the successor-in-interest to Electra Inc.

8. Defendant, Electra LLC continued the manufacture and sale of the product line of ELECTRA INC.

9. Defendant, Trek BC, purchased Electra LLC in 2013, including all of its assets and liabilities.

10. Defendant, Trek BC, is the successor-in-interest to Electra LLC.

11. Defendant, Trek BC, has continued the manufacture and sale of the product line of ELECTRA LLC.

12. Defendant, TREK RETAIL CORPORATION (d/b/a Trek Bicycle Philadelphia Manayunk) ("Trek M"), is a for-profit corporation organized and existing under the laws of the State of Wisconsin, with a principal place of business of 4159 Main Street, Philadelphia, PA 19127, who conducts business daily in the County of Philadelphia selling and servicing Trek® and Electra® bicycles.

13. Defendant, BEACON STORES, INC. (d/b/a Beacon Cycling and/or Beacon Cycling & Fitness) ("Beacon Cycling") is a for-profit corporation organized and existing under the laws of the State of Delaware, with a principal place of business of 231 Tilton Road, Northfield, NJ 08225, who regularly and systematically conducts business in the County of Philadelphia selling and servicing Trek® and Electra® bicycles.

14. Defendant, MITCHELL ROVINS ("Mr. Rovins"), is an adult individual and owner/operator of Beacon Stores, Inc. (d/b/a Beacon Cycling and/or Beacon Cycling & Fitness), with a former address of 231 Tilton Road, Northfield, NJ 08225, and a current address of 1005 Maple Ave Linwood, NJ 08221, who regularly and systematically conducted business in the County of Philadelphia.

15. Defendant, SUSANNA ROVINS ("Mrs. Rovins"), is an adult individual and owner/operator of Beacon Stores, Inc. (d/b/a Beacon Cycling and/or Beacon Cycling & Fitness), with a former address of 231 Tilton Road, Northfield, NJ 08225, and a current address of 1005 Maple Ave Linwood, NJ 08221, who regularly and systematically conducted business in the County of Philadelphia.

16. Defendant, SRAM, LLC ("SRAM"), is a for-profit corporation organized and existing under the laws of the State of Delaware, with a principal place of business of 1000 W. Fulton Market #4, Chicago, IL 60607, who regularly and systematically conducted business in the County of Philadelphia.

17. Defendants, JOHN DOE(S) and JANE DOE(S), are yet known adult individuals who designed, manufactured, sold, distributed, warranted, or repaired the subject product, with an address of 1234 Main Street, Anywhere, PA 19107, and who regularly and systematically conducted business in the County of Philadelphia.

18. Defendants, ABC CORPORATION and DEF, LLC, are for-profit business entities or partnerships of unknown form, who designed, manufactured, sold, distributed, warranted, or repaired the subject product, with a principal place of business of 1234 Main Boulevard, Downtown, PA 19107 and who regularly and systematically conducted business in the County of Philadelphia.

19. Defendant, HENG YING MACHINERY CO., LTD. ("Heng YMC"), is a for-profit corporation organized and existing under the laws of the Country of Taiwan, with a principal place of business of 136 Jen Teh 5th St. 33545, Taoyuan City, Taiwan (R.O.C.), and who regularly and systematically conducted business in the United States of America, including the County of Philadelphia.

20. Defendants, at all times pertinent hereto, acted by and through their owners, officers, partners, servants, employees, representatives and agents in the course and scope of their employment, representation or agency.

VENUE

21. Plaintiffs have elected this venue to pursue their various legal claims.

22. Plaintiffs, at all times material hereto, have resided in the City of Philadelphia, County of Philadelphia, Commonwealth of Pennsylvania.

23. Defendants, at all times material hereto, have resided in and/or regularly and systematically conducted business in the City of Philadelphia, County of Philadelphia, Commonwealth of Pennsylvania.

FACTS

24. Dr. Fineman is a long-term customer of Trek BC bicycle products.

25. Dr. Fineman is a long-term customer of Electra bicycle products.

26. Dr. Fineman is a long-term customer of Trek M bicycle products and services.

27. Dr. Fineman is a long-term customer of Beacon Cycling bicycle products and services.

28. In or about the Summer of 2014, the Fineman's completed construction on a vacation home at the Jersey Shore (*i.e.* Longport, New Jersey).

29. As a result, also in or about the Summer of 2014, the Fineman's purchased a silver Electra® Coaster 3 bicycle, bearing serial number ELC2D14722, inclusive of each of its components (the "defective silver Electra bicycle"):



30. The defective silver Electra® bicycle was sold and distributed “fully assembled.”

31. At the same time, the Fineman’s also purchased a second black Electra® Coaster 3 bicycle, bearing serial number ELC3F03173, inclusive of each of its components (the “second defective black Electra bicycle”).

32. The second defective black Electra® bicycle was sold and distributed “fully assembled.”

33. The Fineman’s purchased the bicycles for personal use, intending to use them to ride together as a couple for relaxation while down at the Jersey Shore (*i.e.* Longport, New Jersey).

34. On June 18, 2021, while casually riding himself on a clear, warm summer day at the Jersey Shore, on his way to get lunch at Aversa’s Deli’s in Margate, New Jersey, Dr. Fineman approached the intersection of S. Madison Avenue and Pacific Avenue in Longport, New Jersey.

35. Dr. Fineman began his left hand turn onto S. Madison Ave.

36. Dr. Fineman wished to slow his turn onto S. Madison Ave.

37. Dr. Fineman sought to engage the “coaster brake” of the defective silver Electra® bicycle.

38. The “coaster brake” of the defective silver Electra® bicycle provided no braking response.

39. As a result of the inability to control the speed of the defective silver Electra® bicycle, Dr. Fineman was unable to safely negotiate the turn and crashed (“the crash”).

THE DEFECTIVE BICYCLE

40. Unknown to Dr. Fineman, his defective silver Electra® bicycle had a hidden, latent condition which rendered it unsafe for use.

41. The defective silver Electra® bicycle was designed, manufactured and distributed with only a “coaster brake.”

42. The defective silver Electra® bicycle was designed, manufactured and distributed without any independent or redundant cabled “hand brake.”

43. The defective silver Electra® bicycle was manufactured in Taiwan, Republic of China.

44. The defective silver Electra® bicycle was manufactured, sold and distributed with an SRAM i-Motion 3 three-speed hub (a “coaster brake” version).

45. Unknown to Dr. Fineman, his defective silver Electra® bicycle had a hidden, latent condition which caused its “coaster brake” to fail to engage when applied.

46. As a result of this hazardous, latent, unsafe and hidden condition, all Electra® Coaster 3i bicycles equipped with an SRAM i-Motion 3 three-speed hub (the “coaster brake” version) were recalled for safety reasons.

THE CANADIAN RECALL

47. The defective silver Electra® bicycle was first recalled in Canada on January 17, 2019, under the Government of Canada, Recall No. RA-68862.

48. That Canadian Recall Notice stated, *inter alia*:

Consumer product recall

SRAM recalls three-speed internal gear hub with coaster brake

Starting date: January 17, 2019

Posting date: January 17, 2019
Type of communication: Consumer Product Recall
Subcategory: Sports/Fitness
Source of recall: Health Canada
Issue: Fall Hazard
Audience: General Public
Identification number: RA-68862

What you should do

Affected products: SRAM three-speed internal gear hub with coaster brake

Product description: This recall involves SRAM i-Motion 3, three-speed internal gear hub with coaster brake, UPC 710845662782, for a bicycle.

The internal gear hub was sold installed on the following models of bicycles (with no redundant braking system - for example no front brake):

Electra Cruiser Custom 3i
Electra Coaster 3i
Electra Hawaii 3i
Electra Hawaii 3i (24")
Electra Straight 8
Hazard identified

The brake can fail, posing a crash or fall hazard to the rider.

As of January 3, 2019, the company has received no reports of incidents or injuries in Canada. In the United States, the company has received 4 reports of crashes or falls, and 1 report of a knee and ankle injury from a fall.

Number sold: Approximately 700 units of the affected products were sold in Canada.

Time period sold: The affected products were sold in Canada between February 2014 and January 2018.

Place of origin: Manufactured in Taiwan.

Companies: Distributor, SRAM, LLC, Chicago, Illinois, UNITED STATES



What you should do

Consumers should immediately stop using the recalled hub and contact SRAM for reimbursement of the affected bicycle. SRAM will repurchase the affected bicycles at a fair market, depreciated value, based on the Bicycle Blue Book.

For more information, consumers can contact SRAM's Canadian distributor HLC by telephone toll-free at 1-888-522-2453 between 9:00 a.m. and 8:00 p.m. EST Monday through Friday or online.

Please note that the Canada Consumer Product Safety Act prohibits recalled products from being redistributed, sold or even given away in Canada.

Health Canada would like to remind Canadians to report any health or safety incidents related to the use of this product or any other consumer product or cosmetic by filling out the Consumer Product Incident Report Form.

This recall is also posted on the OECD Global Portal on Product Recalls website. You can visit this site for more

information on other international consumer product recalls.

(<https://recalls-rappels.canada.ca/en/alert-recall/sram-recalls-three-speed-internal-gear-hub-coaster-brake>, last accessed on December 5, 2022).

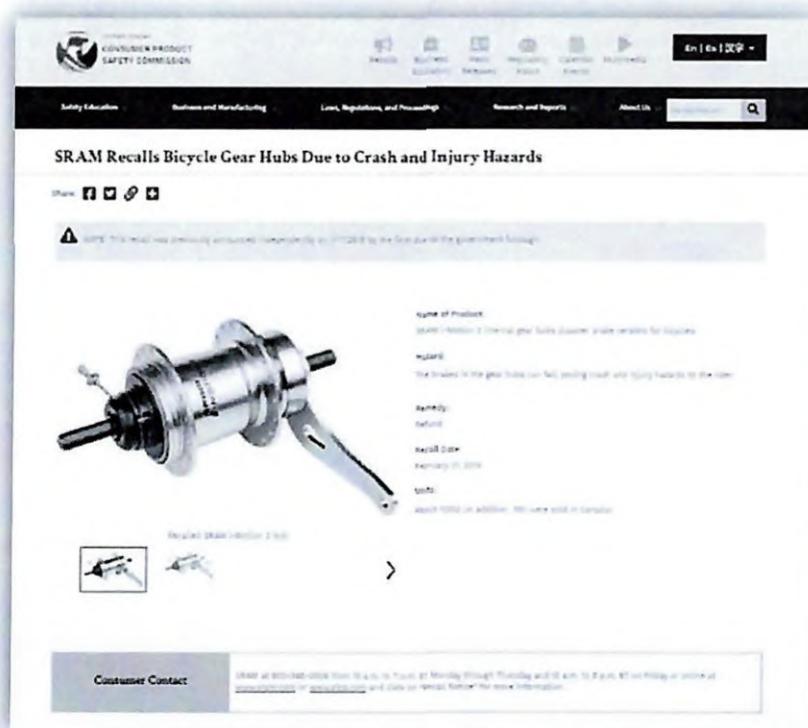
49. Dr. Fineman was never informed of the Canadian recall of the defective silver Electra bicycle prior to the crash.

50. Dr. Fineman was never informed of the Canadian recall of the second defective black Electra bicycle prior to the crash.

THE UNITED STATES RECALL

51. The defective silver Electra® bicycle was then recalled in the United States of America on February 21, 2019, under Consumer Product Safety Commission (“CPSC”) Recall No.19-069.

52. That CPSC Recall Notice stated, *inter alia*:



SRAM Recalls Bicycle Gear Hubs Due to Crash and Injury Hazards

Description: This recall involves SRAM® i-Motion 3 three-speed internal gear hubs with a coaster brake installed on bicycles with no redundant braking system. The recalled hubs were sold on the following Electra® model bicycles: Electra Cruiser Custom 3i, Electra Coaster 3i, Electra Hawaii 3i, Electra Hawaii 3i 24 and Electra Straight 8. The recalled hubs were also sold as aftermarket parts for other bicycles. The recalled hubs have “SRAM i-Motion 3” printed on the hub shell and a brake arm extending from the axle of the hub.

Remedy: Consumers should immediately stop using bicycles with the recalled gear hubs and contact SRAM for instructions on how to receive a partial refund.

Incidents/Injuries: SRAM has received five reports of brake failure, resulting in one minor injury to a rider.

Sold At: Specialty bicycle retailers nationwide from April 2010 through December 2018 for between \$400 and \$800 for Electra bicycles equipped with the recalled hubs and for about \$90 for the recalled aftermarket gear hubs

Manufacturer(s): Heng Ying Machinery Co., Ltd. of Taoyuan City, Taiwan

Distributor(s): SRAM LLC, of Chicago, Ill.

Manufactured In: Taiwan

Recall number: 19-069

Recall Details

In Cooperation With:



Description:
The recall involves SRAM's internal gear hubs. The gear hub has a cassette body, a hub body, and an internal housing system. The recalled hubs were sold in the following recalled models: Xerion Discer, Xerion Disc, Xerion X-1, Xerion X-1 Disc, and Xerion Straight 3. The recalled hubs were also sold as aftermarket parts for other models. The recalled hubs have "SRAM" written on the hub shell and a sleeve arm extending from the side of the hub.

Remedy:
Consumers should immediately stop using bicycle with the recalled gear hubs and contact SRAM for instructions on how to receive a partial refund.

Incidents/Injuries:
SRAM has received five reports of issue, resulting in one minor injury to a rider.

Sold At:
Bicycle Repair Shops nationwide from April 2012 through December 2018 for between \$100 and \$200 for SRAM's models equipped with the recalled hubs and for about \$30 for the recalled aftermarket gear hubs.

Manufacturer(s):
SRAM Corp., based in Germany, Germany

Distributor(s):
SRAM, Inc., Chicago, IL

Manufactured in:
Germany

Recall number:
R-0000

 This recall was communicated voluntarily by the company under CPSC's Voluntary Recall Program. Most recalls are initiated by firms, who contact CPSC with information about potential safety hazards. CPSC is not a safety enforcement agency and merely facilitates consumer communication.

Choose Your Recall Emails **Get Notified About Each Recall via Email.**

<https://www.cpsc.gov/Recalls/2019/SRAM-Recalls-Bicycle-Gear-Hubs-Due-to-Crash-and-Injury-Hazards>, last accessed on December 5, 2022).¹

¹ See also *SRAM RECALLS 7,700 INTERNALLY GEARED HUBS DUE TO BRAKE FAILURE, IT'S OFFERING TO BUY BACK ANY COASTER-BRAKE BIKES SOLD WITH I-MOTION 3 HUBS*. (<https://www.bicycling.com/news/a26521411/sram-recall-internal-gear-hubs/>, last accessed on December 5, 2022) (“SRAM has offered to buy affected bikes back at prices based on the Bicycle Blue Book—most of the models in question are listed at roughly \$350—or else help local dealers request compatible new hubs.”).

53. Dr. Fineman was never informed of the United States recall of the defective silver Electra® bicycle prior to the crash.

54. Dr. Fineman was never informed of the United States recall of the second defective black Electra® bicycle prior to the crash.

THE DEFECTIVE DESIGN FIX

55. Subsequent to the recall of the defective silver Electra® bicycle, the design and manufacture of *inter alia* the Electra® Coaster 3 bicycle was changed to discard the unsafe “coaster brake” only design -- which was thereafter manufactured with an independent or redundant cabled “hand brake:”



56. Defendant knew, or should have known, that the “coaster brake” only design of the defective silver Electra® bicycle was unsafe in design, manufacture or distribution.

57. Defendant knew, or should have known, that the design, manufacture or distribution of an adult bicycle in 2014 with only a “coaster brake” was defective and unreasonably dangerous.

58. Defendant knew, or should have known, that the design, manufacture or distribution of an adult bicycle in 2014 with only a “coaster brake,” and no independent or redundant cabled “hand brake” was defective and unreasonably dangerous.

59. The defective silver Electra® bicycle was not state of the art when manufactured and sold in 2014.

60. The defective silver Electra® bicycle could have been designed, manufactured and sold in 2014 with an independent or redundant cabled “hand brake.”

61. Defendant regularly sold and distributed substantially similar bicycles with independent or redundant cabled “hand brakes” in 2014.

NO NOTICE OF RECALLED DEFECTIVE SILVER ELECTRA® BICYCLE

62. Dr. Fineman was never informed, advised or cautioned of any recall of the defective silver Electra® bicycle.

63. Dr. Fineman was never informed, advised or cautioned of any recall of the second defective black Electra® bicycle.

64. Mrs. Fineman was never informed, advised or cautioned of any recall of either the defective silver Electra® bicycle or the second defective black Electra® bicycle.

65. The Fineman’s independently decided not to ride the defective silver Electra® bicycle again because of its malfunctioning coaster brake.

66. Mrs. Fineman, uncomfortable with Dr. Fineman announcing his desire to bicycle again after the crash, insisted that he take the second defective black Electra® bicycle to their local Trek retail store to get it inspected.

67. In or about the Fall of 2021, Dr. Fineman took the second black Electra® bicycle from the Jersey Shore back home to Philadelphia for Trek M to check out the bicycle, specifically the brakes.

68. Trek M took possession of the second black Electra® bicycle and represented it had road tested the brakes, that there was nothing wrong with the brakes, and further represented “the bike is fine,” even though the product had been recalled with instructions to stop using the product “immediately,” and returned the second defective black Electra® bicycle to Dr. and Mrs. Fineman for their continued use.

69. Trek M never informed the Fineman’s of the recall of his defective silver Electra® bicycle.

70. Trek M never informed the Fineman’s of the recall of his second defective black Electra® bicycle.

71. Trek M never informed the Fineman’s that the distributor of the SRAM i-Motion 3 three-speed hub (the “coaster brake” version) advised all consumers “to stop riding it immediately.”

72. Trek M never informed Dr. Fineman that the Canadian Government advised all consumers of the product “to stop riding it immediately.”

73. Trek M never informed Dr. Fineman that the CPSC advised all consumers to “immediately stop using bicycles with the recalled gear hubs.”

74. Trek M did not offer to repurchase the defective silver Electra® bicycle.

75. Trek M did not offer to repurchase the second defective black Electra® bicycle.

76. Still uncomfortable with riding even the second defective black Electra® bicycle given the defective silver Electra® bicycle's prior brake failure and the resulting crash and injuries, even after the improper "all clear" representation by Trek M, Dr. Fineman conducted some internet research seeking whether replacement hubs were available for purchase.

77. It was not until April 23, 2022 that Dr. Fineman's own Internet research first alerted him to the fact his defective silver Electra® bicycle, and second defective black Electra® bicycle, had been recalled, that he was warned by both Canadian and United States government officials to stop riding the bicycle(s) immediately, that several other consumers had likewise experienced a "coaster brake" failure, and that at least one other person had also crashed due to the failure of the bicycle's "coaster brake" suffering bodily injury.

78. Dr. Fineman and Mrs. Fineman are angered that nobody bothered to inform them of the recall of the defective silver Electra® bicycle, and second defective black Electra® bicycle, prior to the crash and the injuries and damages suffered by each of them in 2021 (and since such time).

79. Both Dr. Fineman and Mrs. Fineman have since permanently stored, and will not ride again, the defective silver Electra® bicycle or the second defective black Electra® bicycle.

THE INJURIES

80. In his normal use of the defective silver Electra® bicycle, Dr. Fineman was caused to forcibly crash onto the roadway.

81. Dr. Fineman instinctively reached out with his left arm to brace himself during the crash.

82. Dr. Fineman is a left-hand dominant surgeon.

83. Dr. Fineman's body was caused to be contused and bruised.

84. Dr. Fineman's left hand was scraped, contused and bruised.

85. Dr. Fineman felt an injury to his left elbow and tricep.

86. The muscular structures in Dr. Fineman's left elbow and tricep were forcibly torn, strained and sprained.

87. Dr. Fineman maneuvered the defective silver Electra® bicycle home and sought medical advice from Pedro K. Beredjiklian, M.D. of the Rothman Institute on the same day.

88. Dr. Beredjiklian referred Dr. Fineman for an MRI study.

89. Dr. Fineman underwent an MRI study the next day on June 19, 2021 at Main Line Health Systems in Newtown Square, Pennsylvania which revealed a full-thickness left tricep tendon rupture with retraction of the torn fibers, extensive tissue swelling, areas of intramuscular edema and hemorrhage throughout the posterior elbow with concomitant distal triceps muscle strain.

90. Dr. Fineman was examined by Christopher C. Dodson, M.D. of the Rothman Institute on June 21, 2021.

91. Dr. Dodson performed a left open distal triceps tendon repair surgery upon Dr. Fineman on June 24, 2021 at the Vinsera Surgery Center located in Philadelphia, Pennsylvania.

92. Dr. Fineman was caused to undergo the risks of general anesthesia for the surgery of June 24, 2021.

93. Dr. Fineman was hard casted from June 24, 2021 through July 6, 2021.

94. Dr. Fineman was last examined by Dr. Dodson at the Novacare facility in South Philadelphia, Pennsylvania on July 27, 2021 during the Philadelphia Eagles physicals.

95. Dr. Fineman underwent physical therapy at Novacare in Conshohocken, Pennsylvania through September 7, 2021.

96. Dr. Fineman was confined to an adjustable brace until September 7, 2021.

97. Dr. Fineman has been required to receive medical treatment and will require further medical treatment in the future.

98. Dr. Fineman body is scarred.

99. Dr. Fineman has been caused to take prescription medications as a result of his injuries and surgery.

100. Dr. Fineman suffers from cold intolerance in his left elbow joints and muscles.

101. Dr. Fineman has difficulty sleeping.

102. Dr. Fineman has lost strength in his left upper body.

103. Dr. Fineman has suffered a loss of capacity and function.

104. Dr. Fineman injuries are permanent in nature.

105. Dr. Fineman has been denied every day pleasures and enjoyment.

106. Dr. Fineman has suffered a diminished quality of life.

107. Dr. Fineman has suffered, and will suffer, pain, suffering and mental anguish.

108. Dr. Fineman has suffered, and will suffer, humiliation and embarrassment.

109. Dr. Fineman has been caused to purchase medical equipment and supplies as a result of his injuries, surgery and recovery.

110. Dr. Fineman is a licensed (Pennsylvania and New Jersey), board certified ophthalmologist, a vitreoretinal surgeon, on the active staffs of Wills Eye Hospital (Philadelphia, PA), Bryn Mawr Hospital (Bryn Mawr, PA), St. Luke's Hospital (Bethlehem, PA) and Virtua

Health-West Jersey Health System (Vorhees, NJ), an Assistant Professor at the Thomas Jefferson University and the Team Ophthalmologist for the Philadelphia Eagles (NFL).

111. Dr. Fineman's crash caused disruption to his employment duties, patient relationships and surgery schedule.

112. Dr. Fineman was caused to go on short term disability from the crash and resulting injuries.

113. Dr. Fineman lost significant income as a result of his absence and/or limitations from his employment following the crash.

114. Dr. Fineman activities of daily life were also interrupted, disrupted, frustrated, inconvenienced, delayed and limited.

115. Dr. Fineman suffered a loss of life's pleasures.

116. Dr. Fineman suffered a loss of companionship and intimacy with his spouse.

117. All of Dr. Fineman's injuries and damages were proximately caused by Defendant.

118. Dr. Fineman incurred, and will incur in the future, medical and others expenses associated with this loss.

119. Dr. Fineman will suffer other damages and injuries which may become apparent during the pendency of this civil action.

120. Dr. Fineman's past, current and future medical and/or financial losses were proximately caused as a result of the crash set forth above.

COUNT I – NEGLIGENCE = INADEQUATE RECALL

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

121. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

122. Defendant had an actual knowledge of the recall of the defective silver Electra® bicycle prior to Dr. Fineman's crash and injuries.

123. Defendant has a history of recalls for other defective bicycles (and components thereof) before the recall was announced of the subject defective silver Electra® bicycle.

124. Defendant had prior experience in recall campaigns sufficient to ensure consumer notice and safety, including, *inter alia*:

2019	Kickstarter Safety Recall
2018	Line Pro Pedal Recall
2017	720 Disc Recall
2016	Bicycle Light Recall
2016	Fairly & Farley 6 Fork Recall
2015	Superfly Seatpost Recall
2015	Santour Fork Bolt Recall
2015	Quick Release Lever Recall
2014	Suntour Fork Recall
2013	Madone Recall
2013	Fox Evolution Fork Recall
2012	Suntour Support Tube Fork Recall

2011	FX and District Recall
2009	Trek 7300, 7300WSD & 7500 Fork Recall
2008	Trek Girl's MT 220 Bicycle Recall
2006	Trek Anthem C Elite Recall
2001	Chariot Child Carrier Recall
2000	Rock Show Suspension Fork Recall
1998	Sachs Chain Recall
1996	Klein Stern Recall
1994	KSS Bottom Bracket Recall

125. Defendant thus knew, or should have known, how to properly, effectively, and practically conduct a viable recall campaign to ensure consumer notice and safety.

126. Trek BC at all times relevant hereto registered, owned and/or maintained the web domain name at trekbikes.com.

127. Trek BC at all times relevant hereto also registered, owned and/or maintained the web domain at ascendrms.com.

128. Trek BC knew and possessed the personal e-mail address of Dr. Fineman as early as January 2016.

129. Trek BC communicated directly to Dr. Fineman's personal e-mail address as early as 2016.

130. Trek BC communicated directly to Dr. Fineman's personal e-mail address as early as 2016 on behalf of Beacon Cycling.

131. Beacon Cycling at all times relevant hereto registered, owned and/or maintained the web domain at beaconcycling.com.

132. Beacon Cycling at all times relevant hereto also registered, owned and/or maintained the email address of therideclub@tbcrideclub.com.

133. Beacon Cycling knew and possessed the personal e-mail address of Dr. Fineman since 2014.

134. Beacon Cycling communicated directly to Dr. Fineman's personal e-mail address since 2014.

135. Trek M operated at all times relevant hereto through the e-mail address of manayunk@trekbikes.com.

136. Trek M knew and possessed the personal e-mail address of Dr. Fineman since approximately 2017.

137. Trek M communicated directly to Dr. Fineman's personal e-mail address since approximately 2017.

138. Defendant's failure to implement and conduct an adequate recall campaign regarding defective silver Electra® bicycle fell below an acceptable standard of care.

139. Defendant was negligent for its individual and/or collective failure to have and implement an adequate recall campaign regarding the defective silver Electra® bicycle.

140. Dr. Fineman has suffered damages as a proximate result of the failure of Defendant to have and implement an adequate recall campaign regarding the defective silver Electra® bicycle.

141. Defendant had an actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT II – NEGLIGENCE (DEFECTIVE PRODUCT)

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

142. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

143. Defendant distributed a defective and unreasonably dangerous product.

144. Defendant failed to warn Dr. Fineman of the defective and unreasonably dangerous condition in the product.

145. Defendant's actions and/or inactions were wanting of ordinary or reasonable care.

146. Defendant's actions and/or inactions were intentional, willful, wanton, outrageous, reckless and/or careless in complete disregard for the safety of Dr. Fineman.

147. Defendant's carelessly, negligently and recklessly failed to design, test, manufacture, inspect, package, label, sell, distribute, market, display, advertise, and/or failed to warn regarding the condition of the defective silver Electra® bicycle, including, but not limited to:

- a. In designing and/or manufacturing and/or selling the bicycle and/or its component parts manufactured from inadequate materials that could fail or malfunction during normal anticipated use;
- b. In failing to assure that the bicycle and/or its component parts it designed, manufactured, maintained, assembled, fabricated and/or sold utilized a proper design to ensure that its "coaster brake" would not fail during normal foreseeable use;
- c. In failing to assure that the bicycle and/or its component parts it designed, manufactured and/or sold utilized proper materials that could withstand the foreseeable force and stress that comes from the ordinary use of the product;

- d. In failing to warn of the dangers of the bicycle and/or its component parts, which could fail and cause a user to lose control of the bicycle during ordinary intended use;
- e. In designing and/or manufacturing and/or selling the bicycle and/or its component parts in a condition that could cause or permit the "coaster brake" to fail and pose a crash hazard;
- f. In failing to provide all features necessary to render the bicycle and/or its component parts safe for its intended use;
- g. In failing to assure that the bicycle and/or its component parts were appropriate for its intended uses;
- h. In marketing the bicycle as safe for its intended use when its "coaster brake" could fail and cause the rider to lose control of the bicycle and be injured;
- i. In failing to assure all necessary warnings, directions, and instructions regarding the risks and limitations attendant to the use of the bicycle were provided;
- j. In failing to adequately and more effectively recall the bicycle; and,
- k. In failing to identify and properly repair the dangerous defect at any time when the bicycle was inspected and/or serviced before the crash.

148. Defendant, at all times pertinent hereto, are vicariously liable for the actions or inactions of their owners, officers, partners, servants, employees, representatives and/or agents.

149. Defendant's actions and/or inactions breached the applicable standard of care.

150. Defendant's actions and/or inactions caused the crash involving Dr. Fineman.

151. Dr. Fineman has suffered injuries and damages as a proximate result of the negligence of Defendant.

152. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT III – NEW JERSEY PRODUCT LIABILITY ACT

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

153. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

154. Defendant designed, tested, manufactured, inspected, packaged, labeled, sold, distributed, marketed, displayed, advertised a defective and unreasonably dangerous product.

155. The defective silver Electra® bicycle was expected to and did reach Dr. Fineman, and was used by him, without substantial change in the condition in which it was sold.

156. The subject defective silver Electra® bicycle was unreasonably dangerous in design.

157. The subject defective silver Electra® bicycle was unreasonably dangerous in its manufacture.

158. The subject defective silver Electra® bicycle was unreasonably dangerous in its lack of, and inadequate, warnings.

159. The defective silver Electra® bicycle was unreasonably dangerous in that it could and did malfunction and/or fail under normal use.

160. The defective silver Electra® bicycle was unreasonably dangerous in that it failed to have proper labels, warnings, and instructions.

161. Defendant acted with conscious and deliberate disregard of the foreseeable harm caused by the defective silver Electra® bicycle.

162. Dr. Fineman has suffered damages as a proximate result of the strict liability of Defendant.

163. Defendant's actions and/or inactions were intentional, willful, wanton, outrageous, reckless and/or careless in complete disregard for the safety of Dr. Fineman.

164. The defective and unreasonably dangerous condition(s) of the defective silver Electra® bicycle, included, but are not limited to:

- a. In designing and/or manufacturing and/or selling the bicycle and/or its component parts manufactured from inadequate materials that could fail or malfunction during normal anticipated use;
- b. In failing to assure that the bicycle and/or its component parts it designed, manufactured, maintained, assembled, fabricated and/or sold utilized a proper design to ensure that its "coaster brake" would not fail during normal foreseeable use;
- c. In failing to assure that the bicycle and/or its component parts it designed, manufactured and/or sold utilized proper materials that could withstand the foreseeable force and stress that comes from the ordinary use of the product;
- d. In failing to warn of the dangers of the bicycle and/or its component parts, which could fail and cause a user to lose control of the bicycle during ordinary intended use;
- e. In designing and/or manufacturing and/or selling the bicycle and/or its component parts in a condition that could cause or permit the "coaster brake" to fail and pose a crash hazard;
- f. In failing to provide all features necessary to render the bicycle and/or its component parts safe for its intended use;
- g. In failing to assure that the bicycle and/or its component parts were appropriate for its intended uses;
- h. In marketing the bicycle as safe for its intended use when its "coaster brake" could fail and cause the rider to lose control of the bicycle and be injured;
- i. In failing to assure all necessary warnings, directions, and instructions regarding the risks and limitations attendant to the use of the bicycle were provided;
- j. In failing to adequately and more effectively recall the bicycle; and,
- k. In failing to identify and properly repair the dangerous defect at any time when the bicycle was inspected and/or serviced before the crash.

165. Defendant's actions and/or inactions caused the crash involving Dr. Fineman.

166. Dr. Fineman has suffered injuries and damages as a proximate result of the defective silver Electra® bicycle.

167. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal,

or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT IV – PENNSYLVANIA STRICT LIABILITY (CONSUMER EXPECTATION)

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

168. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

169. A bicycle is a consumer product.

170. The defective silver Electra® bicycle is a consumer product.

171. Defendant distributed a defective and unreasonably dangerous product.

172. Dr. Fineman expected as a purchaser of a consumer product such as a bicycle that it would have a properly designed and manufactured brake to retard, control and stop the forward momentum of the bicycle upon user demand.

173. The defective silver Electra® bicycle was defective and unreasonably dangerous because it did not meet the reasonable expectations of an ordinary consumer.

174. The defective silver Electra® bicycle was unreasonably dangerous in that it failed to have expected proper labels, warnings, and instructions.

175. Defendant failed to warn Dr. Fineman of the defective and unreasonably dangerous condition in the defective silver Electra® bicycle.

176. Defendant had an actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to

reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

177. Dr. Fineman has suffered damages as a proximate result of the strict liability of Defendant.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT V – PENNSYLVANIA STRICT LIABILITY (RISK-UTILITY)
Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

178. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

179. At all times relevant hereto, Defendant was engaged in the business of designing, manufacturing, marketing, advertising, distributing and sale of bicycles (and/or bicycle components).

180. The bicycle was defective at the time it was designed, manufactured, and sold by Defendant and at the time of the incident, in that its braking could and did fail during normal and anticipated use.

181. The bicycle and/or its component parts were further defective because the risk posed by their design and/or manufacture exceeded the utility, if any, of their design.

182. A bicycle would not ordinarily have its brakes fail in the course of normal foreseeable use unless it was defectively designed and/or manufactured.

183. Defendant knew or should have known that users riding a bicycle with non-functioning "coaster brakes" was a hazardous condition which could foreseeably lead to a user's crash and resultant bodily injury.

184. Defendant distributed a defective and unreasonably dangerous product.

185. Defendant failed to warn Dr. Fineman of the defective and unreasonably dangerous condition in the defective silver Electra® bicycle.

186. Dr. Fineman has suffered damages as a proximate result of the strict liability of Defendant.

187. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT VI – PENNSYLVANIA STRICT LIABILITY (FAILURE TO WARN)

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

188. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

189. At all times relevant hereto, Defendant was engaged in the business of designing, manufacturing, marketing, advertising, distributing and sale of bicycles (and/or bicycle components).

190. Defendant herein distributed a defective and unreasonably dangerous product.

191. Defendant knew or should have known that components of the defective silver Electra® bicycle were unreasonably dangerous at the time of its sale to Dr Fineman in 2014.

192. Defendant knew or should have known that components of the defective silver Electra® bicycle were unreasonably dangerous prior to the time of Dr Fineman's crash in 2021.

193. Defendant knew or should have known that users riding a bicycle with non-functioning "coaster brakes" was a hazardous condition which could foreseeably lead to a user's crash and resultant bodily injury.

194. Yet, Defendant did not warn or alert, provide guidance or instruction to, Dr. Fineman of the defective and unreasonably dangerous condition in the defective silver Electra® bicycle prior to his crash.

195. Dr. Fineman has suffered damages as a proximate result of the failure to warn by Defendant.

196. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT VII - BREACH OF WARRANTY (EXPRESS)
Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

197. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

198. Defendant expressly warranted² that the defective silver Electra® bicycle was *inter alia* free of defects in material and workmanship, and proper for its intended use.

199. Defendant instead distributed a defective and unreasonably dangerous product.

200. Dr. Fineman reasonably relied upon the skill and judgment of Defendant and upon said express warranty in using the consumer product.

201. Defendant had ample and sufficient notice of the breach of said express warranty, as soon as the true nature of the defective product became known, and the fact that the express warranty and representations were false, prior to Dr. Fineman's crash.

202. Nevertheless, Defendant failed to warn Dr. Fineman of the defective and unreasonably dangerous condition in the defective silver Electra® bicycle before his crash.

203. Indeed, Dr. Fineman had to learn in 2022 by his own efforts, and after his unnecessary crash, that the defective silver Electra® bicycle had been recalled in 2019 due to its latent and unreasonably dangerous condition.

204. Dr. Fineman has suffered damages as a proximate result of Defendant's breach of the express warranty.

205. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

² Dr. Fineman is not currently in possession of each express warranty, said warranty(ies) being in the possession of Defendant(s) – to be produced during the course of discovery. Pa.R.Civ.P. 1019(i).

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT VIII – BREACH OF WARRANTY (IMPLIED – FITNESS OF PARTICULAR PURPOSE)

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

206. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

207. Defendant is a “merchant” as defined by Article 2 of the Uniform Commercial Code.

208. Defendant impliedly warranted that the defective silver Electra® bicycle was safe and fit for its intended use.

209. Defendant instead distributed a latently defective and unreasonably dangerous product.

210. Dr. Fineman reasonably relied upon the skill and judgment of Defendant that the consumer product was safe and fit for its intended use.

211. Defendant had ample and sufficient notice of the breach of said implied warranty, as soon as the true nature of the unfit consumer product became known, and the fact that the product was not fit for its intended use, prior to Dr. Fineman’s crash.

212. Nevertheless, Defendant failed to warn Dr. Fineman of the defective and unreasonably dangerous condition in the defective silver Electra® bicycle before his crash.

213. Indeed, Dr. Fineman had to learn in 2022 by his own efforts, and after his unnecessary crash, that the unfit and defective silver Electra® bicycle had been recalled in 2019 due to its latent and unreasonably dangerous condition.

214. Dr. Fineman has suffered damages as a proximate result of Defendant breach of the implied warranty.

215. Defendant had an actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT IX – BREACH OF WARRANTY (IMPLIED - MERCHANTABILITY)

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

216. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

217. Defendant impliedly warranted that the defective silver Electra® bicycle was safe and merchantable for its intended use.

218. Defendant instead distributed a latently defective and unreasonably dangerous product.

219. Dr. Fineman reasonably relied upon the skill and judgment of Defendant that the consumer product was safe and of merchantable quality for its intended use.

220. Defendant had ample and sufficient notice of the breach of said implied warranty, as soon as the true nature of the defective product became known, and the fact that the product was not of merchantable quality for its intended use, prior to Dr. Fineman's crash.

221. Nevertheless, Defendant failed to warn Dr. Fineman of the defective and unreasonably dangerous condition in the defective silver Electra® bicycle before his crash.

222. Indeed, Dr. Fineman had to learn in 2022 by his own efforts, and after his unnecessary crash, that the unmerchantable and defective silver Electra® bicycle had been recalled in 2019 due to its latent and unreasonably dangerous condition.

223. Dr. Fineman has suffered damages as a proximate result of Defendant breach of the implied warranty.

224. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and punitive damages.

COUNT X – BREACH OF WARRANTY (MAGNUSON-MOSS WARRANTY ACT)

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

225. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

226. Dr. Fineman was a “consumer” as defined the Magnuson-Moss Warranty Act, 15 U.S.C. §2301(3).

227. Defendant is a “supplier” and “warrantor” as defined the Magnuson-Moss Warranty Act, 15 U.S.C. §2301(4-5).

228. The defective silver Electra® bicycle is a “consumer product” as defined the Magnuson-Moss Warranty Act, 15 U.S.C. §2301(1).

229. Defendant warranted that the defective silver Electra® bicycle was *inter alia* free of defects in material and workmanship, and proper for its intended use.

230. Defendant instead sold and distributed a defective and unreasonably dangerous product which failed to confirm to such warranty.

231. Dr. Fineman has suffered damages as a proximate result of Defendant’s breach of warranty.

232. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman’s are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys’ fees and punitive damages.

COUNT XI – NEW JERSEY CONSUMER FRAUD ACT

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,

Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,

John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

233. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

234. Dr. Fineman is a “person” as defined by the New Jersey Consumer Fraud Act, N.J. Stat. Ann. §56:8-1(d).

235. Defendants was engaged in the “sale” of “merchandise” as defined by the New Jersey Consumer Fraud Act, N.J. Stat. Ann. §56:8-1(c), (d).

236. Defendant engaged in an unlawful act, use or employment of an unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, and/or the knowing concealment, suppression of omission, in connection with the sale or advertisement of merchandise, and/or with the subsequent performance, in the distribution to, and/or failure to warn Dr. Fineman of, the defective and unreasonably dangerous condition in the defective silver Electra® bicycle.

237. Dr. Fineman has suffered damages as a proximate result of the liability of Defendant.

238. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and treble damages.

COUNT XII – PENNSYLVANIA UNFAIR TRADE PRACTICES ACT
Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

239. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

240. Defendant engaged in fraudulent and deceptive practices which created the likelihood of confusion and misunderstanding in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. 201-1, *et seq.*

241. Defendant knowingly and intentionally induced Plaintiffs to purchase the defective silver Electra® bicycle (and the second defective black Electra® bicycle) through the use of false and/or misleading marketing, advertising, representations and statements.

242. Dr. Fineman reasonably relied upon the skill and judgment of Defendant that the consumer product was safe and fit for its intended use.

243. The defective silver Electra® bicycle (and the second defective black Electra® bicycle) failed to perform as marketed, advertised and represented, and in fact was unsafe, defective and unreasonably dangerous.

244. Defendant wrongfully profited from its unfair, deceptive, misleading and false representations from the sale of defective and unreasonably dangerous products like the defective silver Electra® bicycle (and the second defective black Electra® bicycle) to Plaintiffs, and to others similarly harmed.

245. Dr. Fineman has suffered damages as a proximate result of the unfair, deceptive, misleading and false representations of Defendant.

246. Defendant had actual knowledge of the dangers associated with the continued use of the defective silver Electra® bicycle to users like Dr. Fineman, but knowingly failed to reveal, or concealed, such dangers, and the Fineman's are thus entitled to punitive damages to deter Defendant and others from engaging in such callous conduct in the future.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees and treble damages.

COUNT XIII – CONSUMER PRODUCT SAFETY ACT (15 U.S.C. §§ 2015 ET SEQ.)

Dr. Fineman v. Trek BC, Electra Inc., Electra LLC, Beacon Cycling,
Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC,
John Doe(s), Jane Doe(s), XYZ Corporation(s) and DEF, LLC(s)

247. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

248. Defendant knowingly and/or willfully violated consumer product safety rules, other rules and/or orders issued by the Consumer Product Safety Commission, including but not limited to:

- a. 16 C.F.R. §1512.3;
- b. 16 C.F.R. §1512.4;
- c. 16 C.F.R. §1512.5;
- d. 16 C.F.R. §1512.17;
- e. 16 C.F.R. §1512.18; and/or,
- f. 16 C.F.R. §1512.19.

249. Dr. Fineman has suffered damages as a proximate result of the violation of the above-referenced rules, other rules and/or orders by Defendant.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, expert fees, attorneys' fees and punitive damages.

COUNT XIV – NEGLIGENCE
Finemans v. Trek M

250. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

251. Trek M had a duty to warn the Fineman's of the recall(s) of their defective and unreasonably dangerous bicycles.

252. Trek M was at all times pertinent hereto, was a representative and/or agent of Trek BC, Electra Inc., Electra LLC, Beacon Cycling, Mr. Rovins, Mrs. Rovins, SRAM, Heng YMC, John Doe(s), Jane Doe(s), XYZ Corporation(s) and/or DEF, LLC(s).

253. Defendant failed to warn the Finemans of the defective and unreasonably dangerous condition in the product.

254. Defendant's actions and/or inactions were wanting of ordinary or reasonable care.

255. Defendant's actions and/or inactions were intentional, willful, wanton, outrageous, reckless and/or careless in complete disregard for the safety of the Finemans.

256. Defendant's actions and/or inactions breached the applicable standard of care.

257. The Fineman's have suffered damages as a proximate result of the negligence of Defendant.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs and attorneys' fees.

COUNT XV – MISREPRESENTATION
Finemans v. Trek M

258. Plaintiffs repeat and aver each of the preceding paragraphs of the Complaint as if set forth at length herein.

259. Defendant failed to warn the Finemans of the defective and unreasonably dangerous condition in the product.

260. Indeed, Trek M represented to Dr. Fineman that the second defective black Electra® bicycle was okay to ride – despite the product having been recalled and consumers which were to be informed to stop riding the bicycle immediately!

261. The Fineman's relied upon the representations of Trek M.

262. Defendant's representations were false, misleading and otherwise wanting of ordinary or reasonable care.

263. Defendant's misrepresentations were intentional, willful, wanton, outrageous, reckless and/or careless in complete disregard for the safety of the Finemans.

264. Defendant's actions and/or inactions breached the applicable standard of care.

265. The Fineman's have suffered ongoing damages as a proximate result of the misrepresentations of Defendant.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs and attorneys' fees.

COUNT XVI – CONSORTIUM
Mrs. Fineman v. Defendants

266. Plaintiff repeats and avers each of the preceding paragraphs of the Complaint as if set forth at length herein.

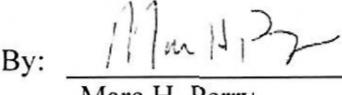
267. Mrs. Fineman is the wife of Dr. Fineman for more than 23 years and as such is entitled to her loss of society, companionship and services caused by the crash.

268. Defendant's carelessness, negligence, recklessness, defective silver Electra® bicycle, breach of warranty(ies) and deceptive and unfair trade practices has caused Mrs. Fineman to suffer a loss of consortium and she has been deprived of her husband's intimacy, companionship, comfort, affection, society and physical assistance.

WHEREFORE, Plaintiffs, Mitchell S. Fineman and Lucy Q. Fineman, demand judgment in their favor, jointly and severally, together with damages, costs, attorneys' fees, punitive damages and treble damages.

Dated: June 9, 2023

POST & SCHELL, P.C.

By: 

Marc H. Perry

I.D. #: 68610
13th Floor
Four Penn Center
1600 John F Kennedy Blvd.
Philadelphia, Pa 19103
(215) 587-1000
mperry@postschell.com

Attorneys for Plaintiffs

VERIFICATION

I hereby verify the foregoing Complaint in this litigation. The information contained in the foregoing is true and correct to the best of my knowledge and belief. To the extent that the foregoing contains legal positions or statements, they are made on the advice of legal counsel, upon whom I have relied. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



Mitchell S. Fineman

VERIFICATION

I hereby verify the foregoing Complaint in this litigation. The information contained in the foregoing is true and correct to the best of my knowledge and belief. To the extent that the foregoing contains legal positions or statements, they are made on the advice of legal counsel, upon whom I have relied. The undersigned understands that the statements herein are made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn falsification to authorities.



Lucy Q. Fiheman

CERTIFICATION

I do hereby certify that a true and correct copy of the above was E-filed this date.

I also certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that requires filing confidential information and documents differently than non-confidential information and documents.

Dated: June 9, 2023

POST & SCHELL, P.C.

By: 
Marc H. Perry
Attorneys for Plaintiffs

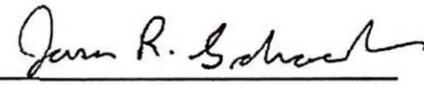
EXHIBIT 2

Mitchell S. Fineman, M.D. and Lucy Q. Fineman, h/w	:	IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
Plaintiffs,	:	No.: 230600934
v.	:	
Trek Bicycle Corporation, Ltd., Electra Bicycle Company, Inc., Electra Bicycle Corporation, LLC, Trek Retail Corporation (d/b/a Trek Bicycle Philadelphia Manayunk), Beacon Stores, Inc., (d/b/a Beacon Cycling and/or Beacon Cycling & Fitness), Mitchell Rovins and Susanna Rovins (d/b/a Beacon Stores, Inc. (d/b/a Beacon Cycling and/or Beacon Cycling & Fitness), SRAM, LLC, John Doe(s) and Jane Doe(s), ABC Corporation and DEF, LLC, and Heng Ying Machinery Co., Ltd.,	:	
Defendants.	:	

Affidavit of Jason Schroeder

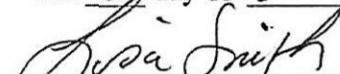
1. I am Jason Schroeder, Accounting and Tax Director of Trek Bicycle Corporation.
2. I am familiar with the corporate structures of Trek Bicycle Corporation, Trek Retail Corporation, and Electra Bicycle Company, LLC.
3. Trek Bicycle Corporation is a Wisconsin corporation with a principle place of business at 801 W. Madison Street, Waterloo, WI 53594.
4. Trek Retail Corporation is a Wisconsin Corporation with a principle place of business at 801 W. Madison Street, Waterloo, WI 53594.
5. Trek Retail Corporation (d/b/a Trek Bicycle, Philadelphia, Manayunk) does not have a principal place of business at 4159 Main Street, Philadelphia, PA 19127.
6. In or around 2014, Trek Bicycle Corporation acquired Electra.
7. Electra Bicycle Company, Inc., is not a legal entity.

8. Electra Bicycle Corporation, LLC, is not a legal entity.
9. Electra Bicycle Company, LLC is a Delaware Limited Liability Company.
10. Electra Bicycle Company, LLC has 3 members:
 - a. John Burke, President; Chad Brown, Vice President; and Jennifer Naeger, Secretary.
11. All three members of Electra Bicycle Company, LLC, are citizens of the state of Wisconsin.


Jason R. Schroeder
Jason Schroeder
Tax Director of Trek Bicycle Corporation.

Sworn to and subscribed before me

this 12th day of June, 2023


Lisa Smith
Notary

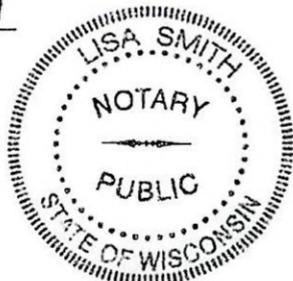


EXHIBIT 3

Underwood, Elizabeth A.

From: mrovins57 <mrovins57@gmail.com>
Sent: Wednesday, June 7, 2023 6:29 AM
To: Underwood, Elizabeth A.
Subject: RE: Fineman v. Trek, et al- approval to remove to federal court

WARNING: This email originated outside MDWCG. BE CAUTIOUS before clicking any link or attachment.

Yes, correct.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Underwood, Elizabeth A." <EAUnderwood@mdwcg.com>
Date: 6/6/23 5:29 PM (GMT-05:00)
To: mrovins57 <mrovins57@gmail.com>
Subject: RE: Fineman v. Trek, et al- approval to remove to federal court

Mr. Rovins:

To confirm, is your consent for removal on behalf of defendants, Mitchell and Susanna Rovins (d/b/a Beacon Stores, Inc.) and Defendant, Beacon Stores, Inc.?

thanks



Elizabeth A. Underwood

Attorney at Law

2000 Market Street, Suite 2300, Philadelphia, PA 19103
Direct: (215) 575-2599 | Main: (215) 575-2600 | Fax: (215) 575-0856
[bio](#) | [e-mail](#) | [website](#)

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From: mrovins57 <mrovins57@gmail.com>
Sent: Monday, June 5, 2023 1:21 PM
To: Underwood, Elizabeth A. <EAUnderwood@mdwcg.com>
Subject: RE: Fineman v. Trek, et al- approval to remove to federal court

WARNING: This email originated outside MDWCG. BE CAUTIOUS before clicking any link or attachment.

Hi Beth, I consent to move the complaint to Federal Court.

Mitch Rovins

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Underwood, Elizabeth A." <EAUnderwood@mdwcg.com>

Date: 6/5/23 8:59 AM (GMT-05:00)

To: mrovins57@gmail.com

Subject: Fineman v. Trek, et al- approval to remove to federal court

Mr. Rovins:

I understand that counsel will not be assigned through your insurance company until you are served with the Complaint. I believe plaintiff will be filing in the Philadelphia County Court of Common Pleas shortly. Do I have your approval to remove the case to the Federal District Court of the Eastern District of Pennsylvania? If so, please respond as I must attach approval of all defendants to effectuate removal.

Thanks

Beth



Elizabeth A. Underwood

Attorney at Law

2000 Market Street, Suite 2300, Philadelphia, PA 19103

Direct: (215) 575-2599 | Main: (215) 575-2600 | Fax: (215) 575-0856

[bio](#) | [e-mail](#) | [website](#)

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EXHIBIT 4



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Civil Docket Report

A \$5 Convenience fee will be added to the transaction at checkout.

Case Description

Case ID: 230600934
Case Caption: FINEMAN ETAL VS TREK BICYCLE CORPORATION, LTD ETAL
Filing Date: Friday , June 09th, 2023
Court: MAJOR JURY-COMPLEX
Location: CITY HALL
Jury: JURY
Case Type: PRODUCT LIABILITY
Status: WAITING TO LIST CASE MGMT CONF

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case motions

No case motions were found.

Case Parties

Seq #	Assoc	Expn Date	Type	Name
1			ATTORNEY FOR PLAINTIFF	PERRY, MARC H
Address:	POST & SCHELL, P.C 4 PENN CENTER, 13TH FLOOR 1600 J.F.K. BLVD. PHILADELPHIA PA 19103 (215)587-1000 mperry@postschell.com	Aliases:	none	
2	1		PLAINTIFF	FINEMAN MD,

				MITCHELL S
Address:	2312 HOLLY LANE LAFAYETTE HILL PA 19444	Aliases:	<i>none</i>	
3			DEFENDANT	ROVINS, SUSANNA
Address:	1005 MAPLE AVENUE LINWOOD NJ 08221	Aliases:	BEACON CYCLING AND/OR BEACON CYCLING & FITNESS DBA	
4			DEFENDANT	SRAM LLC
Address:	1000 W. FULTON MARKET #4 CHICAGO IL 60607	Aliases:	<i>none</i>	
5			DEFENDANT	DOE(S), JOHN
Address:	1234 MAIN STREET ANYWHERE PA 19107	Aliases:	<i>none</i>	
6			DEFENDANT	DOE(S), JANE
Address:	1234 MAIN STREET ANYWHERE PA 19107	Aliases:	<i>none</i>	
7			DEFENDANT	ABC CORPORATION AND DEF LLC
Address:	1234 MAIN BOULEVARD ANYTOWN PA 19107	Aliases:	<i>none</i>	
8			DEFENDANT	HENG YING MACHINERY COMPANY LTD
Address:	136 JEN TEH 5TH ST. 33545 TAOYUAN CITY	Aliases:	<i>none</i>	

9	1	PLAINTIFF	FINEMAN, LUCY	
Address:	2312 HOLLY LANE LAFAYETTE HILL PA 19444	Aliases:	<i>none</i>	
10			DEFENDANT	TREK BICYCLE CORPORATION LTD
Address:	801 W. MADISON STREET WATERLOO WI 53594	Aliases:	<i>none</i>	
11			DEFENDANT	ELECTRA BICYCLE COMPANY INC
Address:	1010 SOUTH COAST HIGHWAY 101 SUITE 101 ENCINITAS CA 92024	Aliases:	<i>none</i>	
12			DEFENDANT	ELECTRA BICYCLE CORPORATION LLC
Address:	3275 CORPORATE VIEW VISTA CA 92081	Aliases:	<i>none</i>	
13			DEFENDANT	TREK RETAIL CORPORATION
Address:	4159 MAIN STREET PHILADELPHIA PA 19127	Aliases:	TREK BICYCLE PHILADELPHIA MANAYUNK DBA	
14			DEFENDANT	BEACON STORES INC
Address:	231 TILTON ROAD NORTHFIELD NJ 08225	Aliases:	BEACON CYCLING AND/OR BEACON CYCLING & FITNESS DBA	
15			DEFENDANT	ROVINS, MITCHELL
Address:	1005 MAPLE AVENUE	Aliases:	BEACON CYCLING AND/OR BEACON	

LINWOOD NJ 08221		CYCLING & FITNESS DBA		
16			TEAM LEADER	ANDERS, DANIEL J
Address:	529 CITY HALL PHILADELPHIA PA 19107	Aliases:	<i>none</i>	

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount
09-JUN-2023 09:13 AM	ACTIVE CASE		
Docket Entry:	E-Filing Number: 2306021108		
09-JUN-2023 09:13 AM	COMMENCEMENT CIVIL ACTION JURY	PERRY, MARC H	
Documents:	 Click link(s) to preview/purchase the documents Final Cover <div style="border: 1px solid #ccc; padding: 5px; display: inline-block;">  Click HERE to purchase all documents related to this one docket entry </div>		
Docket Entry:	<i>none.</i>		
09-JUN-2023 09:13 AM	COMPLAINT FILED NOTICE GIVEN	PERRY, MARC H	
Documents:	 Click link(s) to preview/purchase the documents Fineman Plaintiff Complaint.pdf <div style="border: 1px solid #ccc; padding: 5px; display: inline-block;">  Click HERE to purchase all documents related to this one docket entry </div>		
Docket Entry:	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED.		
09-JUN-2023 09:13 AM	JURY TRIAL PERFECTED	PERRY, MARC H	
Docket Entry:	12 JURORS REQUESTED.		

09-JUN-2023 09:13 AM	WAITING TO LIST CASE MGMT CONF	PERRY, MARC H	
Docket Entry:	<i>none.</i>		

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EXHIBIT 5

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**
JOHN C. FARRELL, ESQUIRE
Identification No.: 52824
ELIZABETH A. UNDERWOOD, ESQUIRE
Identification No.: 93802
STEPHEN E. PURCELL, ESQUIRE
Identification No.: 326252
2000 Market Street, Suite 2300
Philadelphia, PA 19103
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eaunderwood@mdwcg.com;
sepurcell@mdwcg.com

Attorneys for Defendants, Trek Bicycle Corporation, LTD, Electra Bicycle Company, Inc., Electra Bicycle Corporation, LLC, Trek Retail Corporation, SRAM, LLC

Mitchell S. Fineman, M.D. and Lucy Q.
Fineman, h/w

Plaintiffs,

v.

Trek Bicycle Corporation, Ltd., Electra
Bicycle Company, Inc., Electra Bicycle
Corporation, LLC, Trek Retail Corporation
(d/b/a Trek Bicycle Philadelphia Manayunk),
Beacon Stores, Inc., (d/b/a Beacon Cycling
and/or Beacon Cycling & Fitness), Mitchell
Rovins and Susanna Rovins (d/b/a Beacon
Stores, Inc. (d/b/a Beacon Cycling and/or
Beacon Cycling & Fitness), SRAM, LLC,
John Doe(s) and Jane Doe(s), ABC
Corporation and DEF, LLC, and Heng Ying
Machinery Co., Ltd.,

Defendants.

: IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

: No.: 230600934

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NOTICE OF FILING OF REMOVAL

TO: The Prothonotary of the Court of Common Pleas of Philadelphia County.

PLEASE TAKE NOTICE THAT on June 14, 2023, Defendants, Trek Bicycle
Corporation, LTD, Electra Bicycle Company, Inc., Electra Bicycle Corporation, LLC, Trek

Retail Corporation and SRAM, filed, in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, a Notice of Removal.

A copy of this Notice of Removal is attached hereto and for filing with the Clerk of the Court of Common Pleas of Philadelphia County, pursuant to Title 28, United States Code, Section 1446(e).

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**

BY: 

JOHN C. FARRELL, ESQUIRE
ELIZABETH A. UNDERWOOD, ESQUIRE
STEPHEN E. PURCELL, ESQUIRE

Date: June 14, 2023

CERTIFICATE OF SERVICE

I, Elizabeth Underwood, Esquire, hereby certify that a true and correct copy of the attached Notice of Removal has been served upon all counsel by the Philadelphia County Court of Common Pleas e-filing system and/or electronic mail.

**MARSHALL, DENNEHEY, WARNER
COLEMAN & GOGGIN**



BY: _____
JOHN C. FARRELL, ESQUIRE
ELIZABETH A. UNDERWOOD, ESQUIRE
STEPHEN E. PURCELL, ESQUIRE

Date: June 14, 2023